

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
Augusta Division

IN RE:	)	Chapter 13 Case
	)	Number <u>95-12083</u>
CHARLIE CARROLL, JR.,	)	
	)	FILED
Debtor	)	at 3 O'clock & 10 min. P.M.
	)	Date: 8-28-96
	)	
CHARLIE CARROLL, JR.	)	
	)	
Plaintiff	)	Adversary Proceeding
	)	Number <u>95-01113A</u>
vs.	)	
	)	
MAZDA AMERICAN CREDIT	)	
	)	
Defendant	)	

**ORDER**

Charlie Carroll, Jr. (hereinafter "Debtor") brings this action against Mazda American Credit (hereinafter "Mazda") alleging violations of the automatic stay of 11 U.S.C. §362(a). Mazda moves to dismiss the action because the Debtor's underlying Chapter 13 case has been dismissed. For the reasons that follow, the motion is granted.

Mazda held a security interest in the Debtor's 1992 Mazda 929 automobile as security for a purchase money note, and repossessed

the vehicle for non-payment of the note on November 17, 1995. The Debtor filed his Chapter 13 Petition on November 22, 1995 and thereafter requested that Mazda return the vehicle to the Debtor. The Debtor asserts that Mazda failed to return the vehicle after receiving notice of the Chapter 13 filing. On December 22, 1995, the Debtor filed this action against Mazda asserting a willful violation of the automatic stay. On July 9, 1996, the Debtor voluntarily dismissed this case before confirmation when it was disclosed that the vehicle in question here was wrecked after return by Mazda without insurance coverage contrary to my previous order requiring the Debtor to acquire and maintain such coverage.

As a general rule, dismissal of a bankruptcy case results in the dismissal of related adversary proceedings because federal jurisdiction over causes of action arising under the Bankruptcy Code is premised upon the nexus between the underlying bankruptcy case and the related proceedings. Fidelity & Deposit Co. v. Morris (In re Morris), 950 F.2d 1531, 1534 (11th Cir. 1992). The Morris court recognized that

[t]he bankruptcy court's jurisdiction to decide any matter is invoked by the filing of a bankruptcy petition. Absent that filing, the bankruptcy court is without power to decide the rights of any parties. On the other hand, during the pendency of a bankruptcy case, especially a reorganization case, the court enters orders that alter the rights of parties and the parties themselves enter into agreements that alter their rights; all because of the peculiarities of bankruptcy. . . .

Section 349 acknowledges that some cases ... have progressed so far that judicial interference is needed to unravel or preserve the rights of parties [;and]

[Id. at 1535 (citations omitted)] articulated a discretionary exception to this general dismissal rule establishing when a bankruptcy judge may retain jurisdiction over an adversary proceeding after the bankruptcy case is dismissed. This exercise of discretion requires the bankruptcy judge to consider

1. judicial economy;
2. fairness and convenience to the litigants; and
3. the degree of difficulty of the related legal issues involved.

Id. at 1535, citing In re Smith, 866 F.2d 576, 580 (3d Cir. 1989).

The Debtor's complaint for Mazda's willful violation of the automatic stay does not establish exceptional circumstances under which I should retain jurisdiction. Neither judicial economy, fairness and convenience to the parties, nor the degree of difficulty of a stay violation action provide a sufficient basis to retain jurisdiction of the action under the circumstances surrounding the dismissal of this case.

Mazda's motion to dismiss is ORDERED GRANTED.

JOHN S. DALIS  
UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia

this 28th day of August, 1996.